

VAN BUREN COUNTY ORDINANCE TO BAN LAWN FERTILIZER CONTAINING PHOSPHORUS

ORDINANCE NUMBER 3

Adopted January 13, 2009

Effective January 1, 2010

1. Authority

This Ordinance is adopted under the authority of MCLA 46.10b.

2. Purpose and Intent

The Van Buren County Board of Commissioners finds that Van Buren County's lakes, rivers and streams are natural assets, which enhance the environmental, recreational, cultural and economic resources of the area and contribute to the general health and welfare of the public. The Board further finds that regulating the amount of nutrients and contaminants, including phosphorus contained in lawn fertilizer, entering the lakes, rivers and streams of Van Buren County will improve and maintain lake and stream water quality by reducing algae blooms and the excess growth and spread of other aquatic plants. The Van Buren County Board of Commissioners finds that unreasonable adverse effects on the environment of Van Buren County and on the public health of the citizens of Van Buren County and the visitors to Van Buren County will occur unless this Ordinance is adopted to ban and/or control the use of lawn fertilizers containing phosphorus.

3. Applicability

(a) This Ordinance applies in all areas of Van Buren County.

(b) Townships, cities and villages wholly or partially in Van Buren County may assume administration and regulation of lawn fertilizer application if they have adopted ordinances that includes standards at least as restrictive as those described in Sections 5 through 8.

4. Definition

(a) "Fertilizer" means a substance containing 1 or more recognized plant nutrients, which substance is used for its plant nutrient content and which is designed for use, or claimed to have value, in promoting plant growth. Fertilizer does not include unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and other materials exempted by rules promulgated under MCL 324.8501 et seq.

(b) "Lawn" means any area of land covered primarily with grass and includes, but is not limited to, any yard, playing field, meadow, park, golf course, or cemetery where grass primarily covers the land.

5. Regulation of the Use and Application of Lawn Fertilizer

(a) Effective January 1, 2010, no person shall apply any lawn fertilizer within Van Buren County that is labeled as containing more than 0% phosphorus, except as provided in Section 6 of this Ordinance.

(b) No lawn fertilizer shall be applied when the ground is frozen.

(c) No person shall apply lawn fertilizer to any impervious surface including parking lots, roadways, and sidewalks. If such application occurs, the fertilizer must be immediately removed from those surfaces and either legally applied to turf or placed in an appropriate container.

(d) "Person" means an individual, partnership, association, firm, Limited Liability Company, corporation, or any other legal entity.

6. Exemptions

The restrictions upon the use of lawn fertilizer under Section 5 of this Ordinance shall not apply to:

(a) Newly established turf or lawn areas during their first growing season.

(b) Turf or lawn areas that soil tests, performed within the past three years by the Michigan State University Extension Service or other qualified or recognized authority in the area of soil analysis, confirm are below phosphorus levels established by the Michigan State University Extension Service. The lawn fertilizer application shall not contain an amount of phosphorus exceeding the amount and rate of application recommended in the soil test evaluation.

(c) The application of fertilizer for the purposes of improving yield of farming crops, fruit bearing plants, vegetable and flower gardens, or application to trees or shrubs.

(d) Yard waste compost, bio-solids or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

7. Enforcement

This Ordinance will be enforced by the Van Buren County Drain Commissioner's Office.

8. Civil Infraction Penalties; Injunctive Relief

A. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$250.00 nor more than \$500.00 for the first offense, and not less than \$500.00 nor more than \$1000.00 for a subsequent offense and all other costs, damages, expenses and actual attorneys fees incurred by Van Buren County and/or the Van Buren County Drain Commissioner's Office in enforcing this Ordinance or remedying the violation of this Ordinance committed with respect to a separate incident by the same person within 12 months after a previous violation of the Ordinance for which the person admitted responsibility or was adjudicated to be responsible. Each day that a violation occurs shall constitute a separate offense.

B. A violation of this Ordinance is declared to be a nuisance *per se*. In addition to other penalties and remedies, Van Buren County may seek injunctive relief against the violator, in addition to the Relief against the violator, in addition to the relief outlined in subsection (A).

9. Effective Date

This Ordinance was approved and adopted by the Van Buren County Board of Commissioners on January 13, 2008 and shall be effective on January 1, 2010.

Chris Randall, Chairperson
Van Buren County Board of Commissioners